
CITY OF DUBLIN



Guideline to the Inclusionary Zoning Ordinance Regulations

CITY OF DUBLIN

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1 LIST OF EXHIBITS

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2 GUIDELINES TO THE INCLUSIONARY ZONING ORDINANCE REGULATION

This document is the Guidelines (these “Guidelines”) to the City’s Inclusionary Zoning Ordinance Regulations (the “Ordinance”) set forth in the City’s Municipal Code at Chapter 8.68. The City Council’s purpose in adopting the Ordinance is to increase the diversity of housing prices/rents in the community and ensure that the range of prices/rents continues over time.

In general, the Ordinance requires that 12.5% of the units constructed in a Residential Development project of 20 residential units or more be restricted in occupancy and in sale price or rent charged. Such restricted units are referred to as Below Market Rate (BMR) Units. For for-sale units, 60% must be affordable to moderate-income households and 40% to low-income households. For rental units, 50% must be affordable to Moderate-Income households, 20% to Low-Income households and 30% to Very Low-Income households. (Section 8.68.030.B)

The purpose of these Guidelines is to assist the layperson in interpreting the Ordinance. The Guidelines will assist developers early in the development process so that Residential Development projects are sensitively designed from the beginning in compliance with the requirements of the Inclusionary Zoning Ordinance. In addition, the Guidelines will inform developers, management firms and owners of BMR Secondary Units of the procedures for selling and renting BMR Units and Secondary Units. Furthermore, the Guidelines will provide households interested in renting or purchasing a BMR Unit with an overview of the eligibility requirements, the application and screening process, the restrictions on ownership BMR Units, and the procedures for reselling a BMR Unit.

These Guidelines should be read in conjunction with the Ordinance. While every effort has been made to ensure that these Guidelines are consistent with the Ordinance, if there is any conflict with these Guidelines and the Ordinance, the terms of the Ordinance shall prevail. In addition, the provisions of a Housing Agreement or Resale Restriction Agreement (or like Agreement) recorded against a BMR Unit shall prevail over any general requirements of the Ordinance.

Users of these Guidelines are encouraged to seek their own legal counsel to aid in understanding the requirements of the City’s Inclusionary Program. For any general questions regarding the Guidelines, users may call 925-833-6610.

The effective date of these Guidelines is January 2, 2009. The City will review and to the extent necessary update these Guidelines annually. The Community Development Director may make interim revisions, interpretations or clarifications to these Guidelines provided that he or she considers the revision, interpretation, or clarification to be minor and consistent with the purposes of the Inclusionary Zoning Regulations and the Guidelines. Any such revision, interpretation, or clarification shall not become effective until posted on the City’s website

3 DEFINITION OF TERMS

As used in these Guidelines, the following terms shall be defined as follows:

Administration Fees

- A \$1,500 fee charged by the City to the BMR Owner for all sales and re-sales of BMR Units,
- A \$500 fee charged by the City to the developer/property manager for the annual review of rental developments
- A \$200 fee charged by the City to the BMR Owner for requests to subordinate the Resale Restriction Agreement and/or Performance Deed of Trust or requests to refinance a BMR unit

Fees may be adjusted from time to time by the City.

Affordable Housing Agreement

An agreement between the developer and the City for an ownership Residential Development project which is recorded against the property containing the BMR Units; sets forth the developer's Inclusionary Obligation and the method by which the developer will comply with the requirements of the Inclusionary Zoning Ordinance; and requires, among other things, that the developer require purchasers of BMR Units to execute and record a Resale Restriction Agreement and Option to Purchase and Performance Deed of Trust.

Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants

An agreement between the developer and the City for a rental Residential Development project which is recorded against the property containing the BMR Units; sets forth the developer's Inclusionary Obligation and the method by which the developer will comply with the requirements of the Inclusionary Zoning Ordinance; and requires, among other things, that the BMR Units are reserved for occupancy by Very-Low, Low-, and/or Moderate-Income households at rents affordable to such households for a period of not less than 55 years.

AMI or Area Median Income

The area median income adjusted for household size as published annually by the County of Alameda's Department of Housing and Community Development (HCD).

Approved Capital Improvements

Capital improvements to BMR Units that have been approved by the City pursuant to the procedure set forth in Section 7.4.1. The cost of such improvements may be added to the resale price of the BMR Unit.

BMR Owner

A household that owns a BMR Unit.

Below Market Rate (BMR) Units

A Below Market Rate or BMR Unit is a unit that is reserved for rent to Very-Low, Low, or Moderate-Income households or for-sale to Low or Moderate Income households at a price or rent that is affordable to such households. BMR Units have restrictions recorded against them to ensure that they remain affordable for a period as set forth in the Housing Agreement or Resale Restriction Agreement.

- Rental units are deemed affordable if the annual rent does not exceed 30% of the maximum income level for Very Low-Income, Low-Income, or Moderate-Income households, as applicable, adjusted for household size.
- Owner-occupied units are deemed affordable if the sales price results in annual Housing Expenses that do not exceed 35% of the maximum income level for Low- or Moderate-Income households, as applicable, adjusted for household size.

CalHFA

The California Housing Finance Agency

City

The City of Dublin

Consent Agreement

An agreement between the City and a Qualified Household which authorizes the City to access and review the Qualified Household's credit reports or other personal or financial information to verify a Qualified Household's compliance with the Resale Restriction Agreement, the Ordinance and these Guidelines. This agreement must be executed by purchasers of ownership BMR Units prior to the close of escrow.

Domestic Partner

A legal or personal relationship between individuals who live together and share a common domestic life, but are not joined in a traditional marriage or a civil union as formalized through a local or state registry.

Homebuyer

A person who has not owned any interest in real property during the three-year period prior to the date of the household's application to qualify for purchase of a BMR Unit, including without limitation, real property in which a household member's name appears on title regardless of whether the member's interest in such property results in a financial gain, such property is located in another state or country, or the member has occupied such property as his or her primary residence. If any person has had his or her name on title of a property, but the property was sold more than three years ago from the date of application, the person is considered a Homebuyer.

Homebuyer Education Workshop for Below Market Rate Buyers

A HUD approved 8-hour course designed to provide basic education specific to Below Market Rate Homebuyers. Refer to the City's web site for organizations that may offer this course at www.ci.dublin.ca.us . The date on the completion certificate for the class must be within 6 months of the date of application for a Below Market Rate unit.

Gross Household Income

"Gross Household Income" means all income, from whatever source derived, of all adult household members (18 years of age and older), whether or not such income is exempt from Federal income tax. Such income includes, but is not limited to, the following:

- Compensation received from an employer
- Compensation includes, but is not limited to salary, overtime pay, and other pay

- Other pay includes, but is not limited to, compensation for special working conditions or one time pay-out of unused vacation and sick leave.
- Alimony, spousal and child support
- Cash
- Pensions, if at an age where pension is being received as income
- Public benefits including, but not limited to, CalWorks, SSI, and disability income
- All interest, dividends, and royalties
- Income derived from private businesses
- Rental Income
- Income from pensions
- Compensation for services rendered including fees, fringe benefits, commissions, tips, and bonuses
- Stipend received for participation in a mentor, learning or education opportunity
- Gains from dealings in private and/or commercial property
- Gambling Winnings
- Annuities, life insurance, and endowment contracts
- Income from discharge of indebtedness
- Gross partnership contributions or distributions
- Income from an interest in an estate or trust

Exceptions:

1) Gross Household Income does not include income earned by a household member who is between the ages of 18-26 and meets **both** of the following criteria:

- Is claimed as a dependent of a household member on such member's federal income taxes; and
- Is a full time student (12+ units - school transcript must be provided)

2) Gross Household Income does not include payments to a household member from a governmental fund income if **all** of the following requirements are satisfied:

- The payments are based on the recipient's or the recipient's family's financial need;
- The payments do not represent compensation for services rendered; and
- The payments are part of a governmental housing subsidy program including, but not limited to, Section 8 federal housing assistance payments

(These) Guidelines

These Guidelines to the Inclusionary Zoning Regulations

HCD

The California Department of Housing and Community Development.

HOA

Homeowner's Association

Housing Agreement

An Affordable Housing Agreement, an Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants or a Secondary Unit Regulatory Agreement and Declaration of Restrictive Covenants or other Agreement that relates to Housing that may be adopted from time to time by the City.

Housing Expenses

Principal, interest, taxes, insurances and HOA dues.

HUD

The United States Department of Housing and Urban Development.

Immediate Family Member

A mother, father, brother, sister, child, grandparent or grandchild.

Inclusionary Obligation

The number of BMR Units a developer is required to construct (or pay fees in lieu thereof) in a Residential Development project to comply with the Inclusionary Zoning Regulations.

Inclusionary Zoning Regulations

Chapter 8.68 of the City of Dublin Municipal Code.

In-Lieu Fee

A fee paid by a developer in lieu of constructing BMR Units to satisfy up to 40% of its inclusionary obligation.

Legal Resident

A citizen or other national of the United States or a qualified alien as defined by the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("PRWORA").

Low Income

Total Household Income that is 50% to 80% of AMI, adjusted for actual household size.

Management Plan

A plan required for rental Residential Developments that contains the information set forth in Section 4.11.1 of these Guidelines.

Marketing Plan

A plan required for ownership Residential Developments that contains the information set forth in Section 4.10.1 of these Guidelines.

Maximum Income

The maximum income for an income category (Very-Low, Low-, or Moderate-Income) determined periodically by HCD based on AMI. See Section 5.4 of these Guidelines for Maximum Incomes.

Moderate Income

Total Household Income that is 80% to 120% of AMI, adjusted for actual household size.

Performance Deed of Trust

A deed of trust recorded against a BMR Unit by the City which secures a BMR Owner's compliance with the Resale Restriction Agreement and Option to Purchase.

Preference Points

Points assigned to persons employed within the City of Dublin, public service employees working within the City of Dublin, Dublin residents, Seniors (62+), persons who are permanently disabled (with written verification from a physician or show receipt of SSI or SSDI), persons who are immediate family members of a Dublin resident, and persons who are required to relocate from a Dublin residence due to demolition of the residence or conversion of the residence from a rental to an ownership unit. Persons with Preference Points are given priority over other Qualified Households in the rental or purchase of a BMR Unit.

Principal Residence

The place where a person resides on a substantially full-time basis during not less than ten (10) months per year. Children attending college and not living at home as their principal residence may not be counted as a household member.

Priority List

A list which ranks Qualified Households based on the number of Preference Points received.

Qualified Household

A qualified household is defined in terms of financial relationships and can include any group of persons, so long as such persons, when viewed as a whole, satisfy the eligibility requirements for a household.

For an ownership BMR Unit or for a rental BMR Unit, a "qualified household" means a household that satisfies the requirements listed in Section 5 of these Guidelines.

Resale Restriction Agreement and Option to Purchase, also known as "Resale Restriction Agreement"

An agreement between the City and a BMR Owner that is recorded against the BMR Unit and , among other restrictions, requires the unit to remain affordable to Low- or Moderate-Income households usually for a period of 55 years or as outlined in the Housing Agreement, restricts the resale price of the BMR Unit, requires the BMR Owner to notify the City upon refinancing, reselling or changing the title of a BMR Unit, and provides the City with an option to purchase the BMR Unit upon the occurrence of certain events.

Residential Development

This includes, without limitation, detached single-family dwellings, multiple-dwelling structures, groups of dwellings, condominium or townhouse developments, condominium conversions, cooperative developments, mixed use developments that include housing units, and residential land subdivisions intended to be sold to the general public.

Secondary Unit

A legal secondary dwelling unit that has been approved by the City and that is reserved for occupancy by Very Low-, Low- or Moderate-Income households at rents affordable to such households.

Secondary Unit Regulatory Agreement and Declaration of Restrictive Covenants

An agreement between the City and the owner of a Secondary Unit which is recorded against the property containing the Secondary Unit and requires, among other things, that the Secondary Unit be reserved for occupancy by Very-Low, Low-, or Moderate-Income households at rents affordable to such households for an amount of time specified in the Affordable Housing Agreement or Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants.

Senior

A person 62 years of age or older for the purpose of qualifying for preference points

Special Assessment

A proportional fee charged to the BMR Owner by an HOA to cover the cost of physical improvements to the entire building.

Total Household Income

All Gross Household Income and assets received (as calculated pursuant to Sections 5.4.2 and 5.4.3).

Very-Low Income

Total Household Income that is fifty percent (50%) or less of AMI, adjusted for actual household size.

4 REQUIREMENTS FOR DEVELOPERS

4.1 Overview of the Inclusionary Zoning Process

Residential Developments consisting of 20 residential units or more must comply with the Inclusionary Zoning Regulations (Section 8.68.030(A)). In general, the Regulations require that 12.5% of the units constructed in a Residential Development be reserved for occupancy by For-Sale Units to Moderate-Income households and Low-income households or rented at prices affordable to, Very-Low-, Low-, and Moderate-Income households. Such restricted units are referred to as BMR Units. (Section 8.68.030.A)

While the Regulations require that 12.5% of the units in the Residential Development be BMR Units, the Regulations permit the developer to meet 5% of this obligation by paying an In-Lieu Fee. Thus, there is a “must-build” requirement of 7.5% of the units in the Residential Development, and the obligation with respect to the remaining 5% of the units may be satisfied by the payment of an In-Lieu Fee. BMR Units must remain affordable for a period of 55 years, through affordability restrictions recorded against the property.

In addition, the Inclusionary Zoning Regulations require that BMR Units:

- Be constructed concurrently with the market-rate units in the Residential Development;
- Have a similar range of bedrooms to the market-rate units in the Residential Development;
- Not be distinguished by design or materials from the market-rate units in the Residential Development; and
- Be reasonably dispersed throughout the Residential Development.

A developer may also satisfy its Inclusionary Obligation by dedicating land or constructing BMR Units off-site if the City Council makes the required findings. See Section 8.68.040 of the Inclusionary Zoning Regulations for alternate methods of complying with the requirements of the Ordinance.

4.2 Determining the Number and Size of Units Required

Prior to submitting an application to the City for a Residential Development that includes 20 or more residential units, the developer should begin thinking about how to comply with the Inclusionary Obligation. As part of the initial project review, Housing Staff is available to discuss with the developer options for meeting the Inclusionary Obligation. For example, if a developer intends to build only the minimum number of BMR Units and to pay an In-Lieu Fee for the remaining units, Housing Staff can, for planning purposes, provide the developer with the preliminary number of BMR Units the developer would be required to build, the income levels and sizes of the required BMR Units, and the amount of the In-Lieu Fee under the then-current fee schedule.

After a Residential Development application is submitted to the Community Development Department for review, a Project Review Committee meeting is generally held. In this meeting City Staff and interested agencies involved in the development process review the Residential Development and give preliminary comments to the developer.

Prior to or following the Project Review Committee (PRC) meeting, Housing Staff will send a letter to the developer indicating the developer's Inclusionary Obligation for the Residential Development as preliminarily proposed. A copy of this letter will also be directed to the City's Project Planner responsible for the Residential Development. The purpose of this letter is to provide the developer information on the Inclusionary Obligation as early as possible in the development process. The City recognizes that the Residential Development is likely to evolve over time and that the Residential Development will likely change prior to obtaining City entitlements. However, this information is provided early in the process as a service to the developer for planning purposes.

The developer's final Inclusionary Obligation will be formalized in an Affordable Housing Agreement between the City and the developer, prior to the recordation of the first final map or the issuance of the first building permit, whichever occurs first, for the development.

4.3 How to Calculate the Inclusionary Obligation

Developers of projects subject to Section 8.68.030.A of the Inclusionary Zoning Regulations shall construct 12.5% of the total number of dwelling units within the development as affordable units, unless subject to an exception approved by the City Council. In making this calculation, any decimal fraction less than or equal to 0.50 is disregarded, and a decimal fraction greater than 0.50 is construed as a unit. Two examples of how the Inclusionary Obligation for a particular development is calculated are shown in Figure 1.

FIGURE 1

Example 1: The developer proposes a 224-unit subdivision. 12.5% percent of 224 is 28. The Inclusionary Obligation is 28 units of the original 224 units.

Example 2: The developer proposes a 316-unit subdivision. 12.5% percent of 316 is 39.5. Rounding the decimal fraction down, the Inclusionary Obligation is 39 units of the original 316 units.

4.4 How to Calculate How Many Units Must Be Constructed and How Many Units of the Obligation May be Satisfied with an In-Lieu Fee

The Ordinance permits a Developer to pay an In-Lieu Fee for up to 5% of its Inclusionary Obligation. When the calculation of the fee results in a decimal fraction, the rounding rules contained in Section 8.68.030A are used.

Using the same examples from Figure 1, Figure 2 illustrates the calculation of the number of BMR Units that may be subject to the In-Lieu Fee.

FIGURE 2

Example 1: The developer proposes a 224-unit subdivision, for which the Inclusionary Obligation is 28 units of the 224 units. 40% of 28 units = 11.2 units. Disregarding the fraction, the developer may pay an In-Lieu Fee for the remaining 11 units, and the developer's "must-build" obligation would be 17 units. $11 + 17 = 28$ units.

Example 2: The developer proposes a 316-unit subdivision, for which the Inclusionary Obligation is 39 units of the 316 units. 40% of 39 units = 15.6 units. This number is rounded up to 16 and In-Lieu Fees may be paid for this amount, instead of providing units. The "must-build" obligation would be 23 units. $16 + 23 = 39$ units.

4.5 How to Calculate the Amount of the In-Lieu Fee

The amount of the In-Lieu Fee is set by Resolution of the City Council. Resolution No. 56-02 provides that the In-Lieu Fee per BMR Unit is adjusted annually on July 1 to reflect the greater of the percentage change either in a) the Bay Area Urban Consumer Price Index (CPI) as of February of each year, or b) the United States Department of Housing and Urban Development (HUD) Fair Market Rent limits for the Oakland Primary Metropolitan Statistical Area (PMSA) that are in effect at the time. The fee as of July 1, 2008 is \$ 91,916 per BMR Unit.

THE ENTIRE IN-LIEU FEE AMOUNT FOR THE RESIDENTIAL DEVELOPMENT IS DUE AND PAYABLE UPON ISSUANCE OF THE FIRST BUILDING PERMIT FOR THE RESIDENTIAL DEVELOPMENT.

Using the examples from Figures 1 and 2, Figure 3 illustrates how to calculate the amount of the In-Lieu Fee.

FIGURE 3

Example 1: The developer proposes a 224-unit subdivision. In-Lieu Fees may be paid for 11 units. $11 \times \$91,916$ is \$1,011,076 which is the amount of the In-Lieu Fee for the Residential Development. This entire amount would be due prior to issuance of first building permit.

Example 2: The developer proposes a 316-unit subdivision. In-Lieu Fees may be paid for 16 units. $16 \times \$91,916 = \$1,470,656$ which is the amount of the In-Lieu Fee for the Residential Development. This entire amount would be due prior to issuance of first building permit.

4.6 How to Calculate How Many BMR Units Must Be Provided for Each Income Level

Pursuant to Section 8.68.030.B of the Inclusionary Zoning Ordinance, the BMR Units included in each Residential Development project must be allocated to households in the following manner:

For-Sale Units :

- 60% to moderate-income households
- 40% to low-income households

Rental Units:

- 50% to moderate-income households
- 20% for low-income households
- 30% for very-low income households

Once again, if the allocation calculations results in a decimal fraction, the rounding rules contained in Section 8.68.030.A apply. In addition, if the allocation calculation results in fewer units than would otherwise be required; one additional unit should be allocated to the lowest income level with the decimal fraction closest to 0.50. (Section 8.68.030.B)

Figure 4 illustrates how to calculate the number of units that must be provided at each income level and how the rounding requirement is implemented:

FIGURE 4 FOR RENTAL BELOW MARKET RATE UNIT

The Residential Development includes 200 units. The Inclusionary Obligation is 25 units. The developer chooses to pay an In-Lieu Fee for 40% of the units, which equals 10 units. The developer's *must-build* requirement (7.5%) is 15 units.

- 50% of those 15 units would need to be restricted for Moderate-Income households, 50% of 15 = 7.5
- 20% of those 15 units would need to be restricted for Low-Income households, 20% of 15 = 3
- 30% of those 15 units would need to be restricted for Very Low-Income households, 30% of 15 = 4.5

$$7.5 + 3 + 4.5 = 15$$

Since two of these numbers are fractions at exactly .5, the City of Dublin would require that the unit be provided in the lower income category.

In this example the income- unit mix would be:

- 7 Moderate-Income units
- 3 Low-Income units
- 5 Very Low-Income units

4.7 How to Determine the Size of BMR Units

The Ordinance requires that the same proportion of bedrooms be reflected in the BMR Units as are in the market rate units. Once again, the rounding conventions in Section 8.68.030.A are used, if the allocations result in decimal fractions.

Figure 5 illustrates how to determine the number of BMR Units that must be provided at each unit size:

FIGURE 5

To determine bedroom requirement:

The developer proposes a 200-unit rental Residential Development and is paying In-Lieu Fees for 40% of the BMR Units. The ***must build*** obligation is 15 units.

The Residential Development includes:

- 50 one-bedroom units (25 % of total)
- 100 two-bedroom units (50% of total)
- 50 three-bedroom units (25% of total)

Therefore:

- 25% of the BMR Units are to be one-bedrooms
- 50% of the BMR Units are to be two-bedrooms
- 25% of the BMR Units are to be three-bedrooms

To determine bedroom requirement per income category:

If 5 of the units are Very Low-Income, using the percentages above the requirement for bedrooms are:

- 25% of 5 = 1.25 one-bedroom units
- 50% of 5 = 2.5 two-bedroom units
- 25% of 5 = 1.25 three-bedroom units

Therefore, the development would be required to provide:

- 1 one-bedroom unit
- 3 two bedroom units
- 1 three bedroom unit

The same calculation is performed to determine the bedroom sizes of the Low-Income and Moderate-Income units.

4.8 How to Determine the Location of BMR Units Within the Development

The Inclusionary Zoning Ordinance requires that BMR Units be reasonably dispersed throughout the Residential Development. The purpose of this requirement is to avoid concentration of the BMR Units in a particular location within a development, effectively segregating them from the rest of the Residential Development. There are many ways in which to implement this requirement and consultation with Community Development Department Staff is recommended prior to developing the final site plan. Ultimately, the Planning Commission or City Council will determine, based on Staff recommendation, if this requirement has been met.

Per section 8.68.040(E) of the Inclusionary Zoning Regulations, the City Council, at its discretion may waive, wholly or partially, the requirements of this ordinance and approve alternate methods of

compliance with this Chapter if the developer demonstrates, and the City Council finds, that such alternate methods meet the purposes of this Chapter.

4.9 Housing Agreements

Section 8.68.50 of the Inclusionary Zoning Regulations requires the developer to execute one of the following Housing Agreements with the City:

- **Affordable Housing Agreement**

An agreement between the developer and the City for a Residential Development project that includes ownership BMR units (and potentially Secondary Units). Such Agreements are recorded against the property on which the Residential Development is being constructed; set forth the developer's Inclusionary Obligation and the method by which the developer will comply with the requirements of the Inclusionary Zoning Ordinance; and require, among other things, that the developer require purchasers of BMR Units to execute a Resale Restriction Agreement and Option to Purchase with the City.

- **Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants**

An agreement between the developer and the City for a Residential Development project that includes rental BMR units. Such agreements are recorded against the property containing the BMR Units; set forth the developer's Inclusionary Obligation and the method by which the developer will comply with the requirements of the Inclusionary Zoning Ordinance; and requires, among other things, that the BMR Units are reserved for occupancy by Very-Low, Low-, and/or Moderate-Income households at rents affordable to such households for a period of not less than 55 years.

- **Secondary Unit Regulatory Agreement and Declaration of Restrictive Covenants**

This Agreement is similar to a Resale Restriction Agreement and is executed after an Affordable Housing Agreement or Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants. *This agreement is between the City and the owner* of a Secondary Unit and is recorded against the property containing the Secondary Unit and requires, among other things, that the Secondary Unit be reserved for occupancy by Very-Low, Low-, and Moderate-Income households at rents affordable to such households for the period of time set forth in the agreement.

The Housing Agreements set forth the legal requirements for the Residential Development project for compliance with the Inclusionary Zoning Ordinance. The Housing Agreements are recorded against the property on which the Residential Development is being constructed, run with the land, and survive transfer or sale of the land. The term of the Affordable Housing Regulatory Agreements is a period of 55 years. The Affordable Housing Agreement is effective until all of the In-Lieu Fees are paid; the BMR units are constructed, sold, and subject to a Resale Restriction Agreement. If a developer executes a Housing Agreement for a particular Residential Development project but the project is not built and new entitlements are sought for the applicable property, the developer must execute a new Housing Agreement, which would replace the existing Agreement.

Among other things, the Housing Agreements must contain the following information:

1. A description of how the developer will comply with its Inclusionary Obligation (whether through unit construction and/or payment of an In-Lieu Fee);
2. Whether the BMR Units will be ownership or rental units;
3. The number of BMR Units the developer will construct for each income category;
4. The size of the BMR Units the developer must construct for each income category;
5. Depending on the nature of the development, the timing of construction of the units to ensure that the BMR Units are constructed concurrently with the market-rate units;
6. If the development proposes ownership BMR Units, a requirement that the developer prepares and obtains City approval of a Marketing Plan, prior to issuance of any building permits in the Residential Development, indicating how the developer plans to sell the BMR Units. This requirement is discussed in additional detail in Section 4.10.1 below;
7. If the development proposes ownership BMR Units, there is a requirement that the developer require the purchasers of such units to execute a Resale Restriction Agreement or a Secondary Unit Regulatory Agreement and Declaration of Restrictive Covenants and a Performance Deed of Trust. A sample Resale Restriction Agreement is attached as Exhibit No. 1. A sample Performance Deed of Trust is attached as Exhibit No. 2. A sample Secondary Unit Regulatory Agreement and Declaration of Restrictive Covenants is attached as Exhibit No. 3.
8. If the development proposes rental BMR Units, a requirement that the developer provide a Management Plan and Marketing Plan as described in Section 4.11.1 to the City for its approval and prepare the Annual Report described in Section 4.11.4.

4.10 Procedures for Initial Sale of BMR Units

4.10.1 The Marketing Plan for Ownership Units

Prior to the issuance of building permits for any ownership BMR Units, the developer shall submit a Marketing Plan to the City for approval. The Marketing Plan must contain the following:

1. A one-page narrative summary suitable for advertising the availability of the BMR Units on the City web page and other locations, including a description of the total number of BMR Units and market-rate units in the Residential Development; the HOA dues for each BMR Unit; the amenities included in the unit, and a telephone number for interested applicants to call for additional information;
2. An explanation of the application process and the deadline for submitting applications. If the development is phased, the developer must establish deadlines for each phase of the development that includes BMR Units;

3. An explanation of the selection process, including an explanation of the Preference Point system;
4. Timelines for buyer selection. If the development is a phased project, information must be provided on the number of phases and the timelines for those phases;
5. Timeline for the developer's sales staff to meet with the City's Housing Staff to receive training on the sale selection and application process;
6. Marketing materials;
7. An application packet which includes:
 - Application for Inclusionary Unit
 - Disclaimer for BMR Application Qualification Questionnaire
 - Credit Authorization and Release
 - Signed Sample Resale Disclosure Statement
 - Required Supporting Documentation Submitted
 - Highlights of Dublin Resale Restriction Agreement
 - Written confirmation of pre-approval for the home which must be validated through Developer's preferred lender.

See Exhibit No. 3 for a sample ownership BMR Unit application packet.

No marketing of the BMR Units shall begin until the developer has received written approval of the Marketing Plan from the City and the developer's sales staff has met with the Housing Staff for training so that the sales staff understands and can explain the application process.

4.10.2 Application and Screening Process

The developer must require each applicant to complete the application that has been approved by the City as part of the Marketing Plan and to provide the required supporting documentation by the deadline set forth in the Marketing Plan. The developer should plan accordingly to assure that applicants are not qualified more than 6 months before the move-in date of the unit.

Application packets should include at a minimum:

- Complete application;
- Income documentation set forth in Section 5.4.1;
- Reservation instrument showing the address, number of bedrooms and sales price;
- A loan pre-approval letter with Good Faith Estimate and Truth in Lending Statement;
- A signed Disclosure Statement (Exhibit F of the Resale Restriction Agreement);
- A signed credit report authorization and release or other consent and verification letter;
- Copy of tri-merge Credit Report; and
- Evidence of 3% available funds to be used as a down payment.

The developer must comply with the following process to sell the BMR Units:

1. Developer collects applications for the period of time set forth in the approved Marketing Plan.
2. Developer screens applicants to determine whether they satisfy the requirements for Qualified Households set forth in Section 5.1.
3. Developer sorts and ranks the Qualified Households based on the Preference Points and creates a Priority List with those applicants with the most Preference Points at the top followed by all other applicants in descending order based on the number of Preference Points received. If more than one qualified applicant receives the same number of Preference Points or if some applicants receive no Preference Points, the developer shall rank the Qualified Households based on other objective criteria outlined in its approved Marketing Plan. For example, the developer may date stamp all applications and, in the case of a tie, rank the Qualified Households based on who applied first, or the developer may choose to hold a lottery to break ties. However, whichever criteria the developer uses must be set forth in its approved Marketing Plan.
4. Developer completes the Priority List within 30 days of the application deadline and submits the list to the City.
5. Developer reviews and sorts the application packets in order of the Priority List and submits **complete** application packets of Qualified Households, together with supporting documentation, to the City within forty-five (45) days prior to close of escrow.
6. The City reviews the application packets to verify the applicants are Qualified Households. The City will make every effort to review the applications within 7 working days of receiving a complete application packet.

Once the City has verified that the applicant is a Qualified Household, the City will send the developer a conditional approval letter (or similar document) indicating the applicant's name, income level and the maximum sale price of the unit (see Section 4.10.3 for more detail on establishing the sale price) and any requirements that must be met before moving forward with the applicant. Once all the required information is received, the City will then send a conditional qualification letter (or similar document) which is valid for 6 months from the date of the letter. A copy of the application packet, along with income verification for the household will be retained by the City as proof of the buyer's qualification to purchase the BMR Unit. If the City determines that the applicant is not a Qualified Household, the City will send the developer an ineligibility letter. An applicant who has been deemed to be ineligible may not reapply for a period of one year from the date of the ineligibility letter.

The developer bears the responsibilities of ensuring applicants are not qualified more than 6 months before a unit becomes available and closes escrow. Applicants must be re-qualified if occupancy is to take place more than 6 months from the date of the conditional qualification letter. Applicants may or may not qualify to purchase a BMR Unit upon re-qualification. In addition, the price of the BMR Unit may change upon re-qualification.

If, upon re-qualification, an applicant does not qualify, it is the responsibility of the developer to notify the applicant.

Conditional approvals are based on information which was supplied to the City by the developer, or their agent. If there are any material changes to the financial conditions, marital status, employment status or other facts or information that is made known to the City prior to loan closing, the developer, their agent or the lender must notify the City of Dublin in writing of these changes. The City expressly reserves the right to re-verify the applicant(s) and may void or cancel this conditional approval or other approval at any time prior to the loan closing if these material changes affect the qualification status of the buyer(s).

Qualification determinations may be appealed by the Developer to the Community Development Director.

THE SALE CANNOT PROCEED UNTIL ALL REQUIRED DOCUMENTS ARE PROVIDED TO THE CITY AND THE DEVELOPER RECEIVES A WRITTEN QUALIFICATION LETTER FROM THE CITY.

7. The developer will offer the unit to Qualified Households based on the Priority List, offering the BMR Unit first to those applicants with the most Preference Points, then in descending order.
8. The developer and applicant will enter into a purchasing agreement.
9. The developer will require the selected buyer to execute a Resale Restriction Agreement and Option to Purchase and a Performance Deed of Trust.
10. The developer will provide the City with the name and address of the title company closing the sale and the name of the escrow officer.
11. Prior to the City sending escrow instructions the City will review all final loan documents for compliance to the Section 6.1 Financing Requirements.
12. The City will prepare and send escrow instructions to the Title Company.
13. The Title Company will submit the following documents to the City:
 - Completed and Signed Residential Loan Application;
 - Completed Truth in Lending Statement, Good Faith Estimate, and a estimated HUD-1 statement from the Title Company;
 - Completed, executed, and notarized Resale Restriction Agreement and Option to Purchase; and
 - Completed, executed, and notarized Performance Deed of Trust.
14. The City will review the above documents for completeness, prepare the Request for Notice of Default for each of the buyer's loans, secure the signature of the City Manager

or his/her designee on the necessary documents, and return the loan documents to the lender.

15. The City will send the original Resale Restriction Agreement, Performance Deed of Trust and Request(s) for Notice of Default to the escrow officer for recording.

If at any time during the application, screening, or sale process, an applicant requires translation services, the developer shall provide such services at the developer's sole cost and expense.

4.10.3 Sale price of BMR Units

Pursuant to Section 8.68.020A.2 of the Inclusionary Zoning Ordinance, Owner-occupied units are deemed affordable units if the sales price results in annual housing expenses that do not exceed 35% of the maximum income level for low-, and moderate-income households, adjusted for household size.

Below Market Rate For-Sale units are priced based on a designated income point that is affordable to a greater range of households in each applicable income category.

- For Low-Income Households (household income of between 50% and 80% of Area Median Income), the sales price would be set at a level so that total monthly housing payment would not exceed thirty-five percent (35%) of one-twelfth of seventy percent (70%) of the Area Median Income for Alameda County.
- For Moderate-Income Households (household income of up to 120% of Area Median Income), the sales price would be set at a level so that total monthly housing payment would not exceed thirty-five percent (35%) of one-twelfth of one hundred and ten percent (110%) of the Area Median Income.

In addition, the fixed sales price approach would be based upon the number of bedrooms in the home instead of the number of persons in the particular household. For example, if a developer is selling a two-bedroom unit, the sales price would be calculated under the "number of bedrooms, plus one" rule for the assumed household size. In each case the sales price would be set based upon the following assumed household sizes for the following sizes of residential units:

No. of Bedrooms	Assumed Household Size
1	2
2	3
3	4
4	5

The assumptions below are used to calculate the maximum sale price for BMR Units. However, a Qualified Household's actual Housing Expenses may differ from these assumptions.

- *Interest* - Prevailing rate (fixed rate for 30 years), secondary market fixed rate, Fannie Mae or Freddie Mac, as determined by staff, on the date that is 30 days prior to the applicable application deadline.

- *Mortgage Term* – fixed rate for 30-years.
- *Taxes* - 1.25% of the estimated sale price of the unit.
- *Insurance* - homeowner's insurance.
 - Homeowner's Insurance – The cost of homeowner's insurance may be calculated based on an estimate provided by the developer. (If the homeowner's insurance is covered by an HOA structure, homeowner's insurance need not be included, but it must be documented that the HOA will provide adequate insurance.)
- *HOA dues, if any.*

Figure 6 shows how the sale price is calculated:

FIGURE 6		
TABULATION OF MAXIMUM SALE PRICE FOR A MODERATE BMR UNITS		Enter Blue Rows Only
Household size		5
Max. allowable annual income		102,300.00
Annual household income		102,300.00
Gross monthly income (line 1 divided by 12)		8,525.00
% paid toward housing		35%
	Enter Amounts	
Gross monthly housing expense (line 2 multiplied by 35%)		2,983.75
Less Interior Homeowner Insurance	50.00	2,933.75
Less Property Taxes (1.25% of line 6)	447.02	2,486.73
Less Homeowners Association Dues (HOA)	117	2,369.73
Net monthly housing expense		2,369.73
		2,369.73
MAXIMUM MONTHLY MORTGAGE PAYMENT		2,369.73
Interest Rate		5.25%
Term		30
Maximum Loan		429,140.55

4.11 Procedures for Initial Rental of BMR Units

After the Housing Agreement is executed, and prior to the issuance of any building permits, the developer must prepare and submit a Management Plan to the City of Dublin Housing Division for approval. After the Management Plan has been approved by the City, and prior to the rental of any units, the developer must screen, rank and qualify eligible tenants and send a priority list to the City

of Dublin's Housing Division. This should happen within 30 days, if possible. In addition, the rent for a BMR Unit must be calculated pursuant to Section 4.11.3.

4.11.1 The Management Plan for Rental BMR Units

Prior to the issuance of building permits, the developer must submit a Management Plan to the City for its approval. The Management Plan must contain the following information:

- a Plan outlining how the management firm will market and maintain the rental BMR Units,
- how the firm will maintain a waiting list for the BMR Units;
- how the management firm will verify applicants' Total Household Income, both initially and annually;
- information on the units to be made available for the City to use on the City website;
- a contact telephone number;
- and the names of those individuals responsible for contact and communication with the City.

4.11.2 Application and Screening Process

The management firm (which could be the owner or builder) is the entity that will be responsible for occupant selection and documentation of rental BMR Units. The management firm's leasing staff should be trained so the staff understands and can explain the rental application process to applicants.

The management firm must require each applicant to complete and return to the management company a Rental BMR Unit Application packet. A sample Rental BMR Unit Application packet is attached as an Exhibit to these Guidelines.

To lease the BMR Units the developer/management company must do the following:

1. Collect applications for a given time period.
2. Screen applicants to determine whether they satisfy the requirements for Qualified Households set forth in Section 5.2.
3. Sort and rank the applications of Qualified Households based on the Preference Points and produce a Priority List with those applicants with the most Preference Points at the top followed by all other applicants in descending order based on number of Preference Points received. If more than one applicant receives the same number of Preference Points or if some applicants receive no points the developer shall use other objective criteria set forth in the approved Management Plan to select occupants. For example, the management firm may date stamp all applicant applications and, in the event of a tie, offer the unit to that applicant that applied first, or the management firm may choose to hold a lottery to break ties. However, whichever criteria the management firm uses must be set forth in the approved Management Plan.

4. The Priority List must be completed within 30 days of the application deadline and submitted to the City for approval;
5. Offer the BMR Units to applicants based on the Priority List, offering first to those applicants with the most points, then in descending order;
6. Execute a Rental Agreement with the tenant that notifies the tenant that he or she may not sublease the unit and that annual certification is required.
7. Maintain applications with income verification and re-certification for City to review at annual onsite monitoring.

Qualification determinations may be appealed by the Developer to the Community Development Director.

4.11.3 Calculating Maximum Rent

The Inclusionary Zoning Regulations state that maximum rents cannot exceed 30% of the Maximum Income in a given income category. Affordable rents are calculation formula is listed below for Very Low, Low and Moderate Income Households:

- Very Low Income Tenants, monthly rent not in excess of thirty percent (30%) of one-twelfth of fifty percent (50%) of the annual Median Income for the Area;
- Low Income Tenants, monthly rent not in excess of thirty percent (30%) of one-twelfth of sixty percent (60%) of the annual Median Income for the Area; and
- Moderate Income Tenants, monthly rent not in excess of thirty percent (30%) of one-twelfth of one-hundred and ten percent (110%) of the annual Median Income for the Area, with in each case based upon the following assumed household sizes for the following sizes of residential units in the Project.

If tenant is required to pay for utilities, the maximum rent must be reduced to account for the cost of such utilities (a utility allowance). Utilities include gas, electric, water, and trash disposal. In addition, if tenants are required to provide their own stove, refrigerator, or washer and dryer, these expenses are considered utilities, and the maximum rent is further reduced. If the tenant is responsible for any of the above, the maximum rent must be reduced by the amounts listed in the Utility Allowance Sheet* (**See Exhibit No. 8**).

Figure 7 illustrates the calculation of maximum rent:

* The Utility Allowances are established by the Housing Authority of Alameda County and revised periodically. The most current Utility allowances for Alameda County may be accessed at the following web site: <http://www.haca.net>., then click on statistics.

FIGURE 7

2008 Rent limits					
Bedroom Size	Assumptions		0 bdrm = 1 person	1 bdrm = 2 people	
			2 bdrm = 3 people	3 bdrm = 4 people	
	50%	60%	110%		
0	\$754	\$905	\$1,658		
1	\$861	\$1,034	\$1,895		
2	\$969	\$1,163	\$2,131		
3	\$1,076	\$1,292	\$2,368		
4	\$1,163	\$1,395	\$2,558		

If a tenants/households income increases to where the tenant/household is no longer income or household size qualified for the BMR rental unit, the tenant/household will not be required to move; however, the household will no longer be considered qualified for a BMR unit and the rent may be increased to market rate rent. The developer/landlord will then offer the next available unit with the same specifications (i.e. bathrooms and bedrooms) as a BMR rent restricted unit.

4.11.4 Annual Report

Pursuant to Section 8.68.050.B of the Inclusionary Zoning Regulations, the management entity for the development must provide the City an annual report (**See Exhibit No 9**). The annual report must include the following information:

- Total Household Income for the prior year for each BMR Unit;
- Number of people residing in each BMR Unit;
- Monthly rents charged and proposed to be charged for each BMR Unit; and
- Vacancy of BMR Units during the previous year.

The management firm must submit the report annually by October 31st. The City of Dublin Housing Staff will send a reminder letter to the management firm, with a copy of the Annual Report form for completion and certification at least three months prior to the anniversary date. This form must be completed and returned to the City by the anniversary date.

4.11.5 Annual Monitoring by City

The City of Dublin may perform an annual site visit to monitor the records of all BMR Units. The City will provide at least two-week's notice to the developer and/or management firm as to the date of the site visit. Files for all BMR Units must be made available for review at the request of the City. The purpose of the monitoring is to ensure compliance with the City's Inclusionary Zoning Ordinance and these Guidelines.

If a Residential Development is financed through a government program that has stricter occupant selection or occupant documentation requirements than the City, the City may elect to rely on those requirements and associated documentation and not require additional documentation. The City will require tenant income verification and restriction of the BMR units for 55 years; however, the management firm may send to the City copies of the documentation that is required and produced for other monitoring agencies.

5 BUYER AND RENTER QUALIFICATIONS FOR BMR UNITS

5.1 Buyer Qualifications

A household is qualified to purchase a BMR Unit if it satisfies the following requirements:

1. The household's Total Household Income does not exceed the applicable Maximum Income set forth in Section 5.4;
2. The household will occupy the unit as its Principal Residence within 30 days of the close of escrow on the unit;
3. The household is of a size meeting the household size criteria set forth in Section 5.3;
4. All title holders of the property must take an 8-hour Homebuyer Education workshop and receive a certificate of completion. Certificate of Completion must be dated within 6 months of the date of application;
5. All applicants have a minimum FICO credit score of 620 (See Section 5.5);
6. The City will require all household members to be either a citizen or national of the United States or a qualified aliens defined by the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996(PRWORA);
7. All members of the household are either:
 - a. persons who hold title to the BMR Unit,, appear on the mortgage, and have executed a Resale Restriction Agreement and Performance Deed of Trust for the unit; or
 - b. persons who are claimed as a dependent on the tax returns of a household member who satisfies the requirements in subsection (a) above; and
8. All members of the household must meet the definition of a qualified homebuyer.

Qualified Households with Preference Points will receive priority over other Qualified Households. For information on the application and screening process, see Section 4.10.2.

Once the City has verified that the applicant is a Qualified Household, the City will send the developer a conditional approval letter (or similar document) indicating the applicant's name, income level and the maximum sale price of the unit (see Section 4.10.3 for more detail on establishing the sale price) and any requirements that must be met before moving forward with the applicant. Once all the required information is received, the City will then send a conditional qualification letter (or similar document) which is valid for 6 months from the date of the letter. A copy of the application packet, along with income verification

Applicants who are determined ineligible will receive an ineligibility letter. Ineligible applicants may not reapply to purchase any BMR Unit for a period of one year from the date of the City's ineligibility letter.

Qualification determinations may be appealed by the Developer to the Community Development Director.

5.2 Renter Qualifications

A household is qualified to rent a BMR Unit if it satisfies the following requirements:

1. The household's Total Household Income does not exceed the applicable Maximum Income (See [Section 5.4](#));
2. All members of the household are Legal Residents;
3. The household will occupy the unit as its Principal Residence within 30 days of executing the lease; and
4. The household is of a size meeting the household size criteria set forth in [Section 5.3](#)).
5. The names of all non-dependent household members must appear on the lease for the BMR Unit
6. No member of the Qualifying Household must own any interest in any real property, including but not limited to, any dwelling unit, commercial real estate, or land.

Qualified Households with Preference Points will receive priority over other Qualified Households. For information on the application and screening process, see [Section 4.11.2](#).

Qualification determinations may be appealed by the Developer to the Community Development Director.

5.3 Household Size

The size of the household is determined by the number of people **living** in a household at the time of application. In the case of a pregnant person, the baby may not be included as a member of the household until the baby is born.

To qualify for a BMR Unit, the size of a household must be compatible with the size of the unit being rented or purchased.

The household size for each BMR Unit may not exceed two people for each bedroom and may not be less than one person per bedroom, unless otherwise permitted by special financing sources. Consult with the City of Dublin for further clarification. The chart below contains the household size permitted for each BMR Unit based on the number of bedrooms:

Studio	1-2 people households
One-bedroom units	1-2 people households
Two-bedroom units	2-4 people households
Three-bedroom units	3-6 people households
Four-bedroom units	4-8 people households

5.4 Total Household Income

To be eligible for a BMR Unit, the applicant's Total Household Income must not exceed the applicable Maximum Income. Total Household Income means the household's Gross Household Income (see Section 5.4.1 below) plus assets calculated pursuant to Section 5.4.3. Maximum Income is determined periodically by HCD based on AMI. Below are the Maximum Incomes for Alameda County for 2008.

Income Category	Number of Persons in Household							
	1	2	3	4	5	6	7	8
Very Low	\$ 30,150	\$ 34,450	\$ 38,750	\$ 43,050	\$ 46,500	\$ 49,950	\$ 53,400	\$ 56,850
Low	\$ 46,350	\$ 53,000	\$ 59,600	\$ 66,250	\$ 71,550	\$ 76,850	\$ 82,150	\$ 87,450
Moderate	\$ 72,300	\$ 82,600	\$ 93,000	\$ 103,300	\$ 111,600	\$ 119,800	\$ 128,100	\$ 136,400

5.4.1 Gross Household Income

Gross Household Income means all income from all adult household members (18 years of age and older) derived from all sources as provided in the Internal Revenue Code (Title 26, Subtitle A, Chapter 1, Subchapter B, Part I, Section 61), whether or not such income is exempt from Federal income tax. Such income includes, but is not limited to, the following:

- Compensation received from an employer
- Compensation includes, but is not limited to salary, overtime pay, and other pay
- Other pay can include, but is not limited to compensation for special working conditions or one time pay-out of unused vacation and sick leave.
- Alimony, spousal and child support
- Cash
- Pensions, if at an age where pension is being received as income
- Public benefits including, but not limited to, CalWorks, SSI, and disability income
- All interest, dividends, and royalties
- Income derived from private businesses
- Rental Income
- Income from pensions
- Compensation for services rendered including fees, fringe benefits, commissions, tips, and bonuses
- Stipend received for participation in a mentor, learning or education opportunity
- Gains from dealings in private and/or commercial property
- Gambling Winnings
- Annuities, life insurance, and endowment contracts
- Income from discharge of indebtedness
- Gross partnership contributions or distributions
- Income from an interest in an estate or trust

Exceptions:

- 1) Gross Household Income does not include income household earned by a household member who is between the ages of 18-26 and meets **both** of the following criteria:
 - Is claimed as a dependent of a household member on such member's federal income taxes; and
 - Is a full time student (12+ units - school transcript must be provided)
- 2) Gross Household Income does not include payments to a household member from a governmental fund Income if **all** of the following requirements are satisfied:
 - The payments are based on the recipient's or the recipient's family's financial need;
 - The payments do not represent compensation for services rendered; and
 - The payments are part of a governmental housing subsidy program including, but not limited to, so-called Section 8 federal housing assistance payments.

For purposes of determining Gross Household Income, each person, 18 years of age or older, must present the following:

- a complete set of Federal and State Income Tax Returns for the past three years, including all schedules (signed & dated) and W-2 forms; (in the case where taxes have not been filed for any of the past three years, a letter of verification of non-filing from the Internal Revenue Service is required);
- four most recent and consecutive pay stubs; and
- three recent and consecutive statements for all financial accounts, including but not limited to, savings accounts, checking accounts, retirement accounts, 401(K) accounts, stock accounts and another accounts held in the applicant(s) name(s), whether held individually or together.

If a household member is self-employed, in addition to the information above, the member must submit profit and loss statements for the past 3 years (if applicable), and a current profit and loss statement for the year.

5.4.2 Income Calculation

a. Wage and Salary

If an applicant is a full time employee (usually 30 to 40 hours) or an employee with consistent regular hours or income, or income with overtime or adjustments as a regular part of their job, one of the following formulas listed below in Section "a" will be used to determine the applicant's salary. Bonuses and commissions may be calculated into the annual income calculation. In the case of unclear income or income that is somewhat difficult to calculate, please contact the City of Dublin Housing Division. The City of Dublin will make the final determination which Income Calculation to use.

Monthly income x 12 months = annual income

Twice monthly x 24 = annual income

Bi-weekly income x 26 = annual income

Weekly income x 52 = annual income

Hourly income x 40 (or whatever normal hours per week may be) x 52 = annual income

An employee who works consistent hours, with some overtime, shall be calculated using the above formula.

b. Variable Income

For applicants who are part-time employees or employees with variable hours every pay period (or variable hours less than 40 hours per week), inconsistent income or hours, overtime, bonuses and commissions, etc. their annual salary shall be calculated using year-to-date income, plus previous year income (from same income source or employer), divided by the number of months reviewed (UP TO BUT NOT EXCEEDING 12 MONTHS) times 12 to arrive at their annual income. If there is no previous year income from same employer, or the job was started mid-year, use current income year to date using the calculation explained in (a) above shall be used. If an applicant works consistently 40 hours per week and has occasional or regular overtime, use the calculation listed in “a” above to calculate income.

c. Inconsistent or Temporary change in Income Due to a Temporary Circumstance

If an applicant has a temporary situation (7 months or less) that makes income calculation difficult, a Verification of Employment may be used to calculate applicant’s income based on a normal annual time period. Or, the income may be calculated based on the person’s hourly rate times their normal working hours (as shown in item “a” above).

d. Self-Employed or Non-Corporation

A self-employed applicant is also considered to have variable income. Gross annual income calculations will be based on the previous two year’s net income shown on Schedule C of the federal income tax returns, plus net income before taxes from the applicant’s signed, year-to-date Profit and Loss Statement, divided by the appropriate number of months (NOT TO EXCEED 12 MONTHS) times 12 to arrive at the annual income.

5.4.3 Assets

An asset test will be applied to all applicants to determine whether they satisfy the income requirements. If an applicant has assets that exceed \$30,000, the following amounts will be added to the applicant’s Gross Household Income to determine the household’s Total Household Income:

- Ten percent (10%) of all assets between \$30,001 and \$130,000
- Thirty percent (30%) of all assets over \$130,000

The maximum assets allowed are \$250,000. Households with assets in excess of \$250,000 will be disqualified. Assets include, but are not limited to, cash, all savings and checking accounts, stocks, bonds, real estate, gifts and other sources of money. Pensions and federally approved retirement savings accounts, such as IRA’s, Roth IRA’s and 401K’s, are excluded; however, retired applicants

who receive income from their retirement account must include such income as Gross Household Income on their application.

Figure 8 illustrates the calculation for determining income with assets:

FIGURE 8

Example:

Household of 3 earns \$50,000 a year and has \$150,000 in total household assets
 $\$150,000 \text{ (minus) } \$30,000 = \mathbf{\$120,000}$ (which equals less than \$130,000)
 $10\% \text{ of } \$120,000 = \mathbf{\$12,000}$
 New total household income: $\$50,000 + \$12,000 = \mathbf{\$62,000}$

Household of 3 earns \$50,000 a year and has \$200,000 in total household assets
 $\$200,000 \text{ (minus) } \$30,000 = \mathbf{\$170,000}$ (which equals more than \$130,000)
 $10\% \text{ of } \$130,000 = \mathbf{\$13,000}$
 $30\% \text{ of balance of } \$40,000 = \mathbf{\$12,000}$
 New total household income: $\$50,000 + \$13,000 + \$12,000 = \mathbf{\$75,000}$

5.5 Credit Score

For ownership BMR Units, a credit check will be conducted on all adults (other than dependents) in the household. Applicants must have sufficient creditworthiness to qualify. Creditworthiness means that:

- i) All household individuals shall have a minimum of three years since Chapters 7 or 13 bankruptcy discharge date and/or foreclosure and evidence of reestablished credit is required; and
- ii) All persons appearing on the mortgage shall have a minimum FICO credit rating of 620 points from all three credit agencies. The representative credit score is the *middle* score of the three sets of repository scores reported for each household member. If more than one eligible applicant is applying, all middle scores will be considered and the lowest of the middle scores shall be the score used in qualifying the household (must be 620 or higher).

Figure 9 shows an example of how to calculate a representative credit score:

FIGURE 9

	Lowest Credit Score	Middle Credit Score	Highest Credit Score
Borrower	678	706	709
Co-Borrower	690	697	703
The Lowest Middle Credit Score of Borrowers		697	

5.6 Alternative Credit History Parameters

Alternative Credit History is permitted with a minimum of four trade lines and twelve-month of satisfactory payment record. One of the trade lines must be a twelve-month verification of rent (VOR) history.

5.7 Preference Points

Applicants will be screened by the developer or their designated party, for initial eligibility based on the requirements set forth in Section 5.1 (for ownership units) or Section 5.2 (for rental units). Qualified Households will then be ranked based on the number of Preference Points they receive.

The Preference Point system set out in the Inclusionary Zoning Ordinance (see Table 1) provides priority to those persons who live in Dublin, work in Dublin, are public-service employees in Dublin, are seniors age 62 and older, are permanently disabled, are an immediate family member of a Dublin resident, and/or are being required to relocate from their current Dublin residence due to demolition of their dwelling or conversion of their dwelling from rental to ownership. Each household may only claim Preference Points once for any given category. The Ordinance provides that even if two persons in the household qualify for Preference Points for the same category, the points are only awarded for one person. For example, if a husband and wife are both employed in Dublin, the couple receives only 3 Preference Points for being employed in Dublin, or if the applicant lives with a family member in Dublin, the applicant will only be entitled to a total of 3 Preference Points. Similarly, if two seniors make up a household, they would be entitled to only 1 Preference Point.

Table 1: The Preference Point System

<i>Priority</i>	<i>Points</i>
Employed in Dublin for at least 6 months*	3 points
Public service employee in Dublin**	1 additional point
Has resided in Dublin for at least one year	3 points
Seniors (62 and over)	1 point
Permanently disabled	1 point
Has an immediate family member who is a Dublin resident & who has continuously lived in Dublin for at least one year	1 point
Must move because housing is to be demolished or converted to condo	1 point

*Newly hired teacher that will be working in Dublin may waive the six-month employment criteria by submitting a copy of their employment contract. Teacher must be credentialed and work at a school that is a State accredited school.

* If self-employed in Dublin, then the business must have a current City business license for at least 6 months at the time of application

** A public service employee is a person who is employed by a public agency such as the City of Dublin, a fire fighter or police officer assigned to work in Dublin, BART, DSRSD, or USPS working in Dublin.

Figure 10 demonstrates how Preference Points are calculated:

FIGURE 10

Example 1: An applicant for a BMR Unit both lives in Dublin (for at least one year) and works in Dublin (for at least 6 months).

This individual will receive the following points:

Lives in Dublin	3 points
Works in Dublin	<u>3 points</u>
Total number of points	6 points

Example 2: An applicant for a BMR Unit works in Dublin and is a schoolteacher.

This individual will receive the following points:

Works in Dublin	3 points
Public Service Employee	<u>1 point</u>
Total number of points	4 points

Example 3: An applicant for a BMR Unit is a senior citizen (62 years old) and lives in the City of Dublin (for at least one year).

This individual will receive the following points:

Senior citizen	1 point
Lives in Dublin	<u>3 points</u>
Total number of points	4 points

If the household indicates on its application that it qualifies for Preference Points, the household will be required to provide the following proof:

If Resident of Dublin:

- Copy of two utility bills (PG&E or water), one from at least one year ago and one most recent utility bill both showing the applicant with a Dublin address; or
- Copy of a current rental agreement.

If Employed in the City of Dublin:

- Copy of first and most recent pay stub establishing length of employment; or
- Letter from employer, on company letterhead, indicating continuous employment for the past six months; or
- For a newly hired teacher that will be working in Dublin, a copy of employment contract.
- If self-employed in Dublin, then the business must have a current City business license for at least 6 months at the time of application

If Public Service Employee working in Dublin:

- Copy of first and most recent pay stub establishing length of employment; or

- Letter from employer, on company letterhead, indicating continuous employment for the past six months; or
- For a newly hired teacher, at a State accredited school, that will be working in Dublin, a copy of employment contract; and
- A letter from employer confirming employment and employer contact information.

If Senior Citizen:

- A valid California (or other state with photo ID.) driver license; or
- A valid California (or other state with photo ID.) identification card; or
- A valid passport.

If Permanently Disabled Individual:

- Doctor's note confirming that applicant is permanently disabled; or
- Other verification from a State Agency establishing permanent disability status; or
- Verification of receipt of SSI or SSDI.

If Person Who Has an Immediate Family Member(s) That Are Dublin Residents:

- Copy of two utility bills (PG&E or water), one from at least one year ago and one most recent utility bill both showing the immediate family member with a Dublin address; or
- Copy of the immediate family member's current rental agreement; and
- A copy of birth certificates for self and immediate family member, establishing relationship; or
- Other legal document establishing relationship.

If Relocated Dublin resident due to Demolition or Condominium Conversion:

- Letter from apartment owner or management firm verifying either the imminent condominium conversion or demolition of the unit; and
- Confirmation from the City's Community Development Department.

Where definitions are not explicitly stated in the Regulations, the City has developed these definitions:

- A senior is defined as a person 62 years of age or older for the purpose of qualifying for preference points;
- To qualify for the permanently disabled point, the person must be able to provide written verification from a physician or show receipt of SSI.
- Immediate family is defined as a mother, father, brother, sister, child, grandparent or grandchild currently living together for 6 months or more.

6 REQUIREMENTS FOR BUYERS OF BMR UNITS

6.1 Financing Requirements

All BMR buyers must be able to secure a loan through a lending institution for a BMR Unit. At the time of application, the developer may require that all applicants get pre-approval from the developer's preferred lender. However, once an applicant receives approval to purchase a unit, the applicant may use a lender of its choice, provided that the lender is able to adhere to the City of Dublin's Guidelines for acceptable loan products.

6.1.1 Acceptable Loan Products for Purchase and Refinancing of a BMR Unit

The City reserves the right to reject loan products if the City believes in its sole discretion that there is a stronger likelihood that the loan product would potentially result in loss of the BMR Unit due to the purchasers' inability to comply with the terms of the loan.

CalHFA or CalVA loan products for first mortgages are not available to purchase BMR units; however a number of CalHFA loan products are permitted for second and third loans. Other loan products may be evaluated upon request. From time to time, the City will make available a list of acceptable loan products.

The following is an example of a non-exclusive list of the loan products that may be acceptable to the City. The list is not intended to be exhaustive and other loan products may be evaluated upon request.

Acceptable 1st Mortgage Loan Products

- Fixed Mortgages up to 40 years
- Maximum 100% combined loan to value

6.1.2 Prohibited Loan Products

- Interest-only loans
- Negative amortizing loans
- Adjustable rate loans
- Balloon payment loans
- Some lines of credit that exceed the resale price of the unit

Unacceptable Mortgages Features

- Stated income loans
- Excessive points and fees

6.2 Down Payment

- Applicants must provide a minimum down payment equal to three percent (3%) of the purchase price from their own funds.
- Funds must be seasoned (on deposit in a financial institution) for a minimum of three months prior to the initial date of the application with documentation showing these funds are available for use as down payment.

- Funds must be placed into escrow prior to close of escrow and proof of availability of funds must be given to the City before close of escrow.

6.2.1 Down Payment Assistance

The City reserves the right to reject down payment assistance products if the City believes in its sole discretion that there is a stronger likelihood that the down payment assistance product would potentially result in loss of the BMR Unit due to the purchasers' inability to comply with the terms of the assistance.

6.3 Debt to Income Ratio

Homebuyer's total debt to income ratio will be set from time to time by the City based on current financial or real estate market conditions.

6.4 First Mortgage Loan Value Ratio

Borrower must provide funds in an amount equal to a minimum of 3% of the purchase price for use as a down payment. Buyer must deposit 3% of the purchase price of their own money into escrow prior to the close of escrow. **The 3% must be applied to the purchase price so the combined loan to value does not exceed 100%.** The 3% down payment may not be used towards closing costs.

6.5 Closing Costs and Deposits

- The buyer is responsible for all closing costs related to the purchase of the BMR Unit, including but not limited to, title fees, escrow fees, and loan origination fees (approximately 2-3% percent of the purchase price). Homebuyer may be "gifted" funds to pay for closing costs.
- The buyer may take advantage of other down payment assistance programs to assist with closing costs with the approval from the City.

6.6 Homebuyer Education Program

Homebuyer(s) must successfully complete a City approved Below Market Rate 8-hour Homebuyer Education Class prior to the close of escrow and must provide the City with evidence of completion.

6.7 Documents that Each Buyer Must Sign

The Inclusionary Zoning Ordinance requires that all BMR Units be restricted for a period of 55 years. As a result, BMR Unit buyers must execute a Resale Restriction Agreement with the City and a Performance Deed of Trust. These documents must be signed by all titleholders and recorded.

6.7.1 Highlights of the Resale Restriction Agreement

The following list highlights some of the restrictions in the Resale Restriction Agreement. This list is not intended to be exhaustive.

Principal Residence Requirement

The unit must be owner-occupied and shall not be used as an investment or rental property. BMR Owners are required to occupy the BMR Unit as their Principal Residence. BMR Owners are prohibited from renting their unit without prior written approval from the City. The owner of an ownership BMR Unit may rent his or her unit for a period not to exceed twelve (12) months upon demonstration of hardship, as determined in the sole and absolute discretion of the City Manager, and written approval from the City of Dublin. "Hardship" means circumstances in which a BMR Owner is required to be absent from the unit for an extended period of time due to either a change in the location of his or her employment or health problems of the BMR Owner or an Immediate Family Member of the BMR Owner. Once the BMR Owner obtains written approval from the City to rent his or her BMR Unit, the BMR Owner shall select a Qualified Household to rent the unit. The monthly rental payment for the BMR Unit shall be calculated pursuant to Section 4.11.3.

The BMR Owner shall not execute a rental agreement for the BMR Unit without first obtaining the City's approval of such agreement. The rental agreement shall clearly state (1) the term of the rental (not to exceed the twelve month period rental is permitted pursuant to these Guidelines), (2) the monthly rental payment, and (3) that the rental is for a limited period of time.

Any rental agreement in violation of these Guidelines is prohibited, and any BMR Owner who violates these Guidelines shall be deemed to be in default under his or her Resale Restriction Agreement.

Resale of BMR Unit

The City of Dublin is not responsible for locating or providing qualified buyers for BMR units; however, all potential buyers must be qualified by the City before the sale can proceed. BMR owners may only sell their units to a Qualified Household or to the City for a restricted price calculated pursuant to Section 7.2. A BMR owner must follow the requirements set forth in Section 7.1 when selling his or her unit. The City has the right of first refusal.

Appreciation Share

Upon the first sale of the BMR Unit after the end of the 55-year term of the Resale Restriction Agreement, the owner must pay to the City an amount equal to 25% of the difference between the actual sale price and the adjusted resale price calculated pursuant to the formula set forth in Section 7.2. For example, if a unit is originally purchased for \$200,000 (actual sale price) and at the end of 55 years sells for \$500,000 (adjusted resale price), the equity of the unit is \$300,000. The amount owed to the City would be 25% of the \$300,000 or \$75,000.

Title Changes

A BMR Owner cannot make changes to the title on a BMR Unit without prior written approval from the City of Dublin. BMR Owners must request changes to title in writing before making any changes to the title of a BMR Unit and are responsible for all costs associated with adding or removing a person to or from the title.

In the case of a change in the household makeup, due to either marriage, divorce, legal separation, death or other occasion that will cause a person to move in or to vacate the BMR Unit, owners should contact the City to ascertain how to add or remove names from the Resale Restriction Agreement and Performance Deed of Trust.

City's Option to Purchase

The City has the option to purchase a BMR Owner's unit upon the occurrence of certain events, including but not limited to, the sale of the BMR Unit, bankruptcy of the BMR Owner, and foreclosure. A BMR Owner must notify the City when it desires to sell its BMR Unit by submitting a Notice of Intent to Transfer (Exhibit B to the Resale Restriction Agreement) to the City. If the City decides not to purchase the unit, the City will send the BMR Owner a letter, along with a packet of information that will assist the BMR Owner in finding another Qualified Household to purchase the unit.

Refinancing BMR Units and Taking Cash Out

In general, BMR Owners may refinance their units only to take advantage of a new loan that benefits the BMR Owner financially (e.g. a lower interest rate with lower monthly payments). BMR Owners must contact the City in writing for prior written approval of all refinancing. Taking cash out of the unit is not allowed unless the cash is going to be used for Approved Capital Improvements as outlined in Section 7.4.

Annual Survey/Monitoring

Each year, the City of Dublin will monitor and require occupancy certification for all BMR Units. An annual survey will be mailed to the owner(s) of each BMR Unit, usually around the anniversary date of the purchase of the unit. Each owner must complete and return the survey along with qualifying documentation. Failure to return the survey and documentation could place the owner(s) in default of the Resale Restriction Agreement. In addition, pursuant to the Consent Agreement, the City may access and review the BMR Owner's credit reports or other financial or personal information to verify the BMR Owner's compliance with the Resale Restriction Agreement and these Guidelines.

Estate Planning

Upon the death of a BMR Owner, the inheriting owner must notify the City of the BMR Owner's death within 30 days of the date of death and must sell the BMR Unit to a Qualified Household at a restricted resale price within 180 days (or longer if approved by the City of Dublin due to market conditions) unless (i) the inheriting owner is the legal child or step-child of the BMR Owner; (ii) the City verifies that legal child or step-child qualifies as a Qualified Household; and (iii) the legal child or step-child signs a Resale Restriction Agreement and a Performance Deed of Trust.

7 Requirements for Resale of BMR Units

7.1 Resale Procedure

An owner must comply with the following procedures when reselling an ownership BMR Unit:

1. The owner must inform the City of his or her intent to sell the unit by filling out a Notice of Intent to Transfer (Exhibit B to the Resale Restriction Agreement) and submitting it, along with any letters from the City for Approved Capital Improvements, to the City. (The owner may still decide not to sell their unit after submitting these documents.)
2. The City may exercise its option to purchase the unit. If the City decides not to purchase the unit, the City will send the BMR Owner a Conditional Consent to Transfer letter and a packet of information that will assist the BMR Owner in finding another Qualified Household to purchase the unit. The Conditional Consent to Transfer letter is valid for 90 days from the date of the letter.
3. The City will inform the owner of the permissible sale price of the unit and any other conditions of sale within thirty (30) days following receipt of the Notice of Intent to Transfer. The sale price will be calculated pursuant to the formula in Section 7.2.
4. The BMR Owner must market the unit and pay all fees associated with the sale of the unit. The BMR Owner may resell the BMR Unit through a BMR Resale Program conducted by a for-profit or non-profit organization, such as the Tri-Valley Housing Opportunity Center. If the seller uses a Real Estate Agent, the Agent must contact the City to find out requirements for listing the property, and proper contact information.
5. At least thirty (30) days prior to the anticipated date of the close of escrow, the prospective buyer must submit the following documentation to the City Housing Staff for approval:
 - a. The income documentation set forth in Section 5.4.1;
 - b. Evidence of completion of a Below Market Rate Homebuyer Education Workshop;
 - c. Completed purchase agreement;
 - d. A loan pre-approval letter with Good Faith Estimate and Truth in Lending Statement
 - e. A signed Disclosure Statement (Exhibit F of Resale Agreement)
 - f. A signed Credit Authorization and Release Form, or similar document
 - g. Name, address and phone number of Title Company handling the transaction along with the name of the escrow officer
 - h. Copy of tri-merge Credit Report; and
 - i. Evidence of 3% available funds to be used as a down payment.

6. The City shall notify the owner within seven (7) days of receipt of complete packet of documentation as listed above of its approval or disapproval of the prospective buyer.

7.2 Calculating Restricted Resale Price

The resale price of a BMR Unit is dependent on AMI at the time of sale and the value of Approved Capital Improvements.

The resale price is equal to:

1. The lowest of the (i) original price paid by the owner for the BMR Unit, increased by an amount equal to the original price multiplied by the percentage increase in AMI between the effective date of the Resale Restriction Agreement and the date the City receives the owner's Notice of Intent to Transfer. (For instance, if the original price of the unit was \$200,000 and the median income increases 2% between the effective date of the Resale Restriction Agreement and the date the City receives the owner's Notice of Intent to Transfer, the unit price will increase by 2%, or \$4,000 to 204,000); or (ii) the fair market value of the BMR Unit as determined by an appraiser approved in writing by the City; **plus**
2. The cost of Approved (in writing by the City) Capital Improvements; **minus**
3. The cost to repair damage to the BMR Unit and to place the unit into saleable condition (the determination of what is considered damage to a unit will be determined by the City). Such items may include, but not limited to, ripped or torn carpet, damage to kitchen or bathroom appliances or fixtures; broken light fixtures, broken or missing tiles and/or grout around tiles, damage to floor or ways; **minus**
4. The amount of all costs advanced by the City for the payment of mortgages, taxes, assessments, insurance premiums HOA dues and/or associated late fees, costs, penalties, interest, attorneys' fees, pest inspections, resale inspections and other expenses related to the BMR Unit, which the owner has failed to pay or has permitted to become delinquent.

7.3 Fees Associated with the Selling of a BMR Unit

The BMR Owner is responsible for all fees associated with the sale of the unit including, but not limited to, any real estate fees, and the City's Administration Fee of \$1,500, which may be adjusted from time to time.

7.4 Capital Improvements

As discussed in Section 7.2 above, the resale price of the BMR Unit will be increased by the amount of Approved Capital Improvements. It is the responsibility of the BMR Owner to keep cost and accounting records of all Approved Capital Improvements.

7.4.1 Procedure for Receiving Approval of Capital Improvements

In the exercise of reasonable discretion in accordance with regulations adopted by the City from time

to time, the City will approve capital improvements that improve the health and safety conditions of a BMR Unit. To receive such approval, the BMR Owner must:

- submit evidence to the City showing the purpose and estimated cost of the capital improvements;
- receive written approval from the City *prior* to commencing any improvements; and
- submit documentation to the City within 30 days of completion of the improvements verifying that such improvements have been completed.

Upon receipt of the estimate for capital improvements, City Staff will review the request for compliance with these Guidelines. The City will review all capital improvements claims and categorize them into **three distinct categories**: 1) Eligible Capital Improvements; 2) Eligible Replacement and Repair; and 3) Ineligible Costs. Each category is defined below.

1. **Eligible Capital Improvements** include major structural system upgrades, Special Assessments, selected additions to the unit (where the new space is needed to meet the size of a growing family) and improvements related to increasing the health, safety and energy efficiency of the BMR Unit. Improvements that meet these criteria will be given 100% credit.
2. **Eligible Replacement and Repair** includes in-kind replacement of existing amenities, repairs and general maintenance that keeps the BMR Unit in good working condition. Costs that meet these criteria will be given 50% credit.
3. **Ineligible Costs** include cosmetic enhancements, installations with limited useful life spans and non-permanent fixtures. Homeowners may undertake these projects at their discretion; however, they will not be given capital improvements credit.

The City will send a letter to the BMR Owner either approving or denying the submitted capital improvements within 30 days of original receipt. The letter will be maintained in the BMR Unit's file at the City of Dublin for use when the unit is resold.

Once the City has approved the capital improvements, the BMR Owner may then proceed with the work, obtaining permits from the Building Division, if applicable. Within 30 days of completion of the improvements and sign-off by the Building Division, if applicable, the BMR Owner must submit the following information:

- A copy of the receipt/invoice for each eligible improvement;
- Proof of payment, such as a cancelled check, bank account statement or credit card bill;
- A copy of Building Permit, if required; and
- A picture or pictures of completed work.

The City may, at its discretion, visit the job site to visually view the completed work.

7.4.2 Special Assessments

HOA- initiated Special Assessments are considered capital improvements and will be added to the resale price of the BMR Unit. In order to receive credit for Special Assessments, homeowners must submit the following documentation within 3-months of payment:

- Invoice for Special Assessment; and
- Proof of Payment, such as a cancelled check, bank account statement or credit card bill.

7.4.3 Capital Improvements Cap

In order to maintain the affordability of the BMR Unit for subsequent buyers, at the time of sale, the City of Dublin will cap all Approved Capital Improvements at 5% of the resale price.

7.4.4 List of Eligible and Ineligible Capital Improvements

Eligible Capital Improvements include major structural system upgrades, some new additions to the unit and improvements related to increasing the health, safety and energy efficiency of the BMR Unit. Improvements that meet these criteria will be given 100% credit. Below is a non-exclusive list of Eligible Capital Improvements:

- Major Electrical Wiring System Upgrade
- Major Plumbing System Upgrade
- Upgrade to Double Paned Windows
- Fireplace Glass Screen
- Room Additions (if room addition meets the criteria for the family size)
- Installation of Additional Closets and Walls
- Alarm System
- Removal of Toxic Substances such as Asbestos; Lead or Mold/Mildew
- Insulation
- Upgrade to Energy Star Built-In Appliances, as follows:
 - Furnace
 - Water Heater
 - Stove/Range
 - Dishwasher
 - Microwave Hood

Eligible Replacement and Repair includes in-kind replacement of existing amenities, repairs and general maintenance that keeps the property in good working condition. Costs that meet these criteria will be given 50% credit for repairs. Below is a non-exclusive list of Eligible Replacement and Repair:

- Electrical Maintenance and Repair, such as:
 - Switches
 - Outlets
- Plumbing Maintenance and Repair, such as:
 - Faucets
 - Supply Line
 - Sinks
- Flooring
- Countertops
- Cabinets
- Bathroom Tile
- Bathroom Vanity
- Replacement of Built-In Appliances, as follows:
 - Furnace
 - Water Heater
 - Stove/Range
 - Dishwasher
 - Microwave Hood
 - Garbage Disposal
- Window Sash
- Fireplace Maintenance or In-kind Replacement (Gas)
- Heating System
- Lighting System (Recessed)

Ineligible Costs include cosmetic enhancements, installations with limited useful life spans and non-permanent fixtures. Owners may undertake these projects at their discretion, however they will not be given capital improvements credit. Below is a non-exclusive list of Ineligible Costs:

- Cosmetic Enhancements, such as:
 - Fireplace Tile and Mantel
 - Decorative Wall Coverings or Hangings
 - Window Treatments (Blinds, Shutters, Curtains, etc.)
 - Installed Mirrors
 - Shelving
 - Refinishing of Existing Surfaces
- Non-Permanent Fixtures, such as:
 - Track Lighting
 - Door Knobs, Handles and Locks
 - Portable Appliances (Refrigerator, Microwave, Stove/Oven, etc.)
- Installations with Limited Useful Life Spans, such as:
 - Carpet
 - Painting of Existing Surfaces
 - Window Glass
 - Light Bulbs

7.4.5 Building Permits

It is the responsibility of the BMR Owner to ascertain (and obtain if necessary) if the work to be performed requires a City building permit. Any work that is done without the required permit will automatically be deemed ineligible as a capital improvement expense whether or not it fits within the definition of an Eligible Capital Improvement or Eligible Replacement and Repair. BMR Owners may call (925) 833-6620 to inquire about building permits.

8 REQUIREMENTS FOR OWNER'S OF BMR SECONDARY UNITS

A Secondary Unit is a legal secondary dwelling unit on an owner's property that has been approved by the City of Dublin as a rental BMR Unit for purposes of compliance with the Inclusionary Zoning Ordinance and that is reserved for occupancy by, and at rents affordable to, Very-Low, Low-, and Moderate-Income households. The City Council may approve such units as part of Developer's proposal for an alternate method of compliance with the Inclusionary Zoning Regulations.

The owner of a Secondary Unit must sign a Secondary Unit Regulatory Agreement and Declaration of Restrictive Covenants, which is recorded against the property containing the Secondary Unit and requires, among other things, that the Secondary Unit be reserved for occupancy by, and at rents affordable to, Very-Low, Low-, and Moderate-Income households for the length of the restrictions. The Agreement will remain in effect regardless of any sale, assignment, or transfer of the property, unless the Agreement is terminated by the City in writing.

8.1 Rental Requirements

If the owner rents the Secondary Unit, the owner shall rent the unit to a Qualified Household and must follow the procedures set forth in Section 4.11. The rent charged to the Qualified Household must not exceed one twelfth (1/12) of thirty percent (30%) of the applicable Maximum Income, adjusted for household size, less a utility allowance as specified by the Housing Authority of Alameda County. Owner shall ensure that all leases and contracts with tenants prohibit subleasing of the Secondary Unit.

8.2 Reporting Requirements

Prior to a household's initial occupancy of a Secondary Unit, and on every anniversary thereafter, the owner or its authorized agent shall obtain from each household written documentation verifying each tenant's eligibility containing all of the following, including additional documentation as City may reasonably require:

- Number of people in the household; and
- Total household income.

The owner or its authorized agent shall retain this documentation for not less than three (3) years, and upon City's request, shall make the documentation available for inspection by City and shall provide copies of the documentation to City. The owner or its authorized agent may require each household to certify the verifying documentation.

8.3 Annual Report - Inspections

Owner shall submit an annual report to the City in conformity with the requirements of Section 8.68.050.B of the Inclusionary Zoning Regulations, together with a certification that the property is in compliance with the requirements of the Secondary Unit Regulatory Agreement and Declaration of Restrictive Covenants. The annual report shall, at a minimum, include the following information: (i) the address of the Secondary Unit; (ii) the monthly rents charged and proposed to be charged; (v) the number of people residing in the unit; and (vi) the total household income of residents. Upon City's request, Owner shall include with the annual report, a copy of the verifying documentation described

in Section 8.3, and such additional information as City may reasonably request from time to time in order to show compliance with the Secondary Unit Regulatory Agreement and Declaration of Restrictive Covenants.

Owner shall permit representatives of City to enter and inspect the property during reasonable business hours in order to monitor compliance with the Secondary Unit Regulatory Agreement and Declaration of Restrictive Covenants upon 24 hours advance notice of such visit to Owner.

8.4 Management Responsibilities

Owner shall be responsible for all management functions with respect to the Property, including without limitation the selection of tenants, certification and recertification of household income and eligibility, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. Except as City may otherwise agree in writing, City shall have no responsibility for management or maintenance of the Property. The contracting of management services to a management entity shall not relieve owner of its primary responsibility for proper performance of management duties.